

**UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA
Plaintiff

v.

**Case Number 8:03cr137
USM Number 18892-047**

RYAN HAYNES

Defendant

**Jerry J. Sena
Defendant's Attorney**

**AMENDED JUDGMENT IN A CRIMINAL CASE
ON MOTION OF THE GOVERNMENT AFTER INITIAL SENTENCING
(For Offenses Committed On or After November 1, 1987)**

Date of Original Judgment: May 28, 2004
(Or Date of Last Amended Judgment)

Reason for Amendment:

Reduction of Sentence for Changed Circumstances (Fed. R. Crim. P. 35(b))

THE DEFENDANT pleaded guilty to counts I and III of the Superseding Indictment on February 17, 2004.

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following offenses:

| <u>Title, Section & Nature of Offense</u> | <u>Date Offense Concluded</u> | <u>Count Number(s)</u> |
|--|-----------------------------------|----------------------------|
| 21 U.S.C. 841(a)(1), (b)(1), and 846 CONSPIRACY TO DISTRIBUTE AND POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE | 09/16/2003 | I |
| 18 U.S.C. 924(c) BRANDISHING A WEAPON IN FURTHERANCE OF A DRUG TRAFFICKING CRIME | 09/30/2002 | III |

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

[X] Government's motion (filing 171) for reduction of sentence pursuant to Rule 35(b) is granted.

Any remaining counts, if any, are dismissed on the motion of the government as to this defendant only.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Sentence:
June 24, 2005

s/ Richard G. Kopf
United States District Judge
June 24, 2005

ADJUDICATION

On February 17, 2004, Magistrate Judge F.A. Gossett conducted a change of plea hearing pursuant to Fed. R. Crim. P. 11, wherein the defendant entered a plea of "Guilty" to count(s) I and III of the Superseding Indictment. No one objected to the proceedings before Magistrate Judge F.A. Gossett concerning entry of the defendant's guilty plea(s). Following the change of plea hearing, Magistrate Judge F.A. Gossett submitted a Report and Recommendation recommending that this court [accept the defendant's plea of guilty and review the defendant's plea agreement at the time of sentencing.

Based on the record in this case, and after an independent examination of all the proceedings in this case, including the transcript of the hearing held before the magistrate judge concerning the defendant's plea of guilty, and in view of the presentence report on the defendant, the court specifically finds and expressly concludes the following:

The Court finds that Ryan Haynes is competent to plead and understands the nature of the charge(s) in this case and further understands the possible penalties which may be imposed on conviction of the offense(s) charged.

The Court finds that Ryan Haynes fully understands his rights, including the right to plead not guilty and to persist in that plea of not guilty; the right to be tried by a jury; the right to have the assistance of counsel at trial; the right to confront and cross-examine witnesses; and the right not to be compelled to testify against himself.

The Court finds that the defendant voluntarily, knowingly and intelligently waives his rights; that the defendant fully understands the consequences of waiving his rights; and that the plea of guilty is supported by an independent basis in fact concerning each essential element of the offense(s) charged.

Further, The Court finds that the defendant understands that, as a consequence of his guilty plea, there will be no trial of any kind concerning the charge(s) against the defendant and the defendant has knowingly waived the right to have a jury determine the quantity of controlled substance attributable to him as alleged in the Indictment/Information. The Court also finds that the defendant understands that the answers to questions in these proceedings may be used against the him if there is a later prosecution for perjury or any false statement relative to this hearing.

Therefore, the court accepts the guilty plea(s) of Ryan Haynes and now adjudges that Ryan Haynes, is guilty of the offense(s) charged in Count(s) I, III of the Superseding Indictment.

IMPRISONMENT

The defendant's sentence of imprisonment is reduced from the original sentence to a term of **sixty (60) months on Count I and thirty-six (36) months on Count III to run consecutively.**

The Court makes the following recommendations to the Bureau of Prisons:

1. **That the defendant participate in the 500-hour Comprehensive Drug Treatment Program or any similar drug treatment program available.**
2. **Defendant shall be given credit for time in custody.**

ACKNOWLEDGMENT OF RECEIPT

I hereby acknowledge receipt of a copy of this judgment this ____ day of _____, _____

Signature of Defendant

RETURN

It is hereby acknowledged that the defendant was delivered on the ____ day of _____, _____ to _____, with a certified copy of this judgment.

UNITED STATES WARDEN

By: _____

NOTE: The following certificate must also be completed if the defendant has not signed the Acknowledgment of Receipt , above.

CERTIFICATE

It is hereby certified that a copy of this judgment was served upon the defendant this ____ day of _____, _____

UNITED STATES WARDEN

By: _____

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **five (5) years on Count I and five (5) years on Count III to run concurrently.**

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

The defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

1. The defendant shall not leave the judicial district without the permission of the court or probation officer;
2. The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
3. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. The defendant shall support his or her dependents and meet other family responsibilities;
5. The defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. The defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
7. The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. The defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10. The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
11. The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
12. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
13. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

SPECIAL CONDITIONS OF SUPERVISION

1. Paragraph #7 of the Standard Conditions of Supervision is modified, i.e., instead of merely refraining from excessive use of alcohol, the defendant shall not purchase, possess, use, distribute or administer any alcohol. For the purpose of this condition, alcohol will be considered just the same as a narcotic or controlled substance.
2. The defendant shall be subject to the search of the defendant's premises, vehicle or person, day or night, with or without a warrant, by a federal probation officer in supervision of the defendant, to determine the presence of any controlled substance, firearm or any other contraband. Any such items found may be seized by the United States Probation officer. This condition may be invoked with or without the cooperation of law enforcement officers.
3. The defendant shall attend, pay for and successfully complete diagnostic evaluation, treatment or counseling program, and shall become a member of a support group (e.g., AA/NA) regarding alcohol and/or controlled substance abuse. To implement this condition, the particular diagnostic evaluation, counseling, treatment and support group are to be approved by the probation officer.
4. The defendant shall provide the probation officer with access to any requested financial information.
5. Pursuant to 18 U.S.C. § 3583(d), the defendant shall submit to a drug test within fifteen (15) days of release from the place of the defendant's imprisonment and shall submit to at least two (2) periodic drug tests thereafter to determine whether the defendant is using a controlled substance. Further, the defendant shall submit to additional testing to detect the presence of any controlled substance in the defendant's body fluids or determine whether the defendant has used any controlled substance. The defendant shall pay for the collection of urine samples to be tested for the presence of a controlled substance. To implement this condition, the time, place and manner of testing are to be approved by the probation officer.
6. The defendant shall report to the Supervision Unit of the U.S. Probation Office for the District of Nebraska between the hours of 8:00 a.m. and 4:30 p.m., 111 South 18th Plaza, Suite C79, Omaha, Nebraska, (402) 661-7555, within seventy-two (72) hours of release from confinement, and, thereafter, as directed by the probation officer.

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth in this judgment.

Total Assessment**Total Fine****Total Restitution****\$200.00 (PAID)**

The Court has determined that the defendant does not have the ability to pay interest and it is ordered that:

FINE

No fine imposed.

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay; payment of the total criminal monetary penalties shall be due as follows:

The defendant has paid the special assessment in the amount of \$200.00, Receipt #O823039.

Unless the court has expressly ordered otherwise in the special instruction above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court, unless otherwise directed by the court, the probation officer or the United States attorney.

All financial penalty payments are to be made to the Clerk of Court for the District of Nebraska, 111 S. 18th Plaza, Suite 1152, Omaha, NE 68102-1322.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

The defendant shall inform the probation officer of any change in his or her economic circumstances affecting the ability to make monthly installments, or increase the monthly payment amount, as ordered by the court. In the event a defendant is able to make a full or substantial payment toward the remaining criminal monetary penalty, he or she shall do so immediately.

The defendant is restrained from transferring any real or personal property, unless it is necessary to liquidate and apply the proceeds of such property as full or partial payment of the criminal monetary penalty.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest (7) penalties, and (8) costs, including cost of prosecution and court costs.

CLERK'S OFFICE USE ONLY:

ECF DOCUMENT

I hereby attest and certify this is a printed copy of a document which was electronically filed with the United States District Court for the District of Nebraska.

Date Filed: _____

DENISE M. LUCKS, CLERK

By _____ Deputy Clerk